



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation on December 6, 2005

NOTICE OF ACTION TAKEN -- DOCKET OST-2000-8562

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Applicant: Vietnam Airlines Corporation (Vietnam Airlines)

Date Filed: June 10, 2003
as supplemented November 18, 2005

Relief requested: Amend current exemption from 49 USC § 41301 (which permits the applicant to conduct limited codeshare operations between Hanoi/Ho Chi Minh City, and Los Angeles/San Francisco, California, via Taipei, Taiwan), to permit the applicant to conduct scheduled foreign air transportation of persons, property, and mail between points behind Vietnam, via Vietnam and intermediate points, to various authorized U.S. points, and beyond. The applicant also requests, to the extent necessary, authority to co-terminalize the U.S. points listed in Attachment 2 to allow blind-sector beyond-gateway codeshare services between those points with authorized U.S. carriers. Furthermore, the applicant requests that the amended exemption authority be granted for a two-year term.¹

Date and citation of last action: April 23, 2004, in this Docket

Applicant representative: George U. Carneal, 202-637-6546 DOT Analyst: Robert J. Finamore, 202-366-2405

Responsive pleadings: On December 5, 2005, we received an answer in support of the supplemental application from the city of San Jose and the Norman Y. Mineta San Jose International Airport.

DISPOSITION

Action: Approved

Action date: December 6, 2005

Effective dates of authority granted: December 6, 2005 – December 6, 2007.

Basis for approval (bilateral agreement/reciprocity): United States - Vietnam Air Transport Agreement.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations of our standard exemption conditions (attached).

Special conditions/Remarks: Vietnam Airlines may not itself operate flights to or from the United States using its own aircraft and crews without further authority from the Department. In the conduct of the services authorized, Vietnam Airlines may conduct the operations authorized herein only by codeshare operations with authorized U.S. or third-country carriers.

Action taken by: Paul L. Gretch, Director, Office of International Aviation

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) the applicant was qualified to perform the proposed operations; (2) our action was consistent with Department policy; (3) grant of the authority was consistent with the public interest; and (4) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted/deferred/dismissed, we

¹ Vietnam Airlines intends to use this authority for its existing codeshare operations with China Airlines, its proposed codeshare operations with American Airlines, and potential future operations with these and other authorized carriers. The U.S. points to which the applicant is proposing service and which have now been formally selected through a diplomatic note from the Government of Vietnam are listed in Attachment 2. The applicant proposes to serve these U.S. points on a codeshare-only basis on flights operated by authorized U.S. or third-country carriers holding the necessary economic authority and/or statements of authorization. The applicant proposes to introduce codeshare services with American Airlines on or about February 1, 2006 (see application of American Airlines in Docket OST-2005-23102).

denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR § 385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

An electronic version of this document is available on the World Wide Web at:

http://dms.dot.gov/reports/reports_aviation.asp

FOREIGN CARRIER EXEMPTION CONDITIONS

In the conduct of the operations authorized, the foreign carrier applicant(s) shall:

- 1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- 2) Comply with all applicable requirements of the Federal Aviation Administration, including, but not limited to, 14 CFR Parts 129, 91, and 36, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1546 or 1550, as applicable. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) from a foreign airport that would be the holder's last point of departure for the United States, contact its International Principal Security Inspector (IPSI) to advise the IPSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served;
- 3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- 4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- 5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- 6) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- 7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are: a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States. In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;
- 8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;
- 9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;
- 10) If charter operations are authorized, except as otherwise provided in the applicable aviation agreement, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and
- 11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code.

05/2004

1. Atlanta, Georgia
2. Austin, Texas
3. Boston, Massachusetts
4. Chicago, Illinois
5. Dallas/Fort Worth, Texas
6. Denver, Colorado
7. Detroit, Michigan
8. Honolulu, Hawaii
9. Houston, Texas
10. Las Vegas, Nevada
11. Los Angeles, California
12. Miami, Florida
13. Minneapolis, Minnesota
14. New York, New York
15. Newark, New Jersey
16. Oklahoma City, Oklahoma
17. Philadelphia, Pennsylvania
18. Phoenix, Arizona
19. Portland, Oregon
20. St. Louis, Missouri
21. San Francisco, California
22. San Jose, California
23. Seattle, Washington
24. Washington, D.C.
25. Wichita, Kansas